

REMARKS

Claims 1-18 were examined and reported in the Office Action. Claims 1-18 are rejected. Claims 1-18 are amended. Claims 1-18 remain. It is asserted in the Office Action that the listing of prior references is not a proper information disclosure statement. Applicant notes that the listing of the prior art references is for background. Applicant understands that the prior art references listed need not be considered by the Examiner. Regarding the informal objections, Applicant has amended the claims to overcome the informal objections.

Applicants request reconsideration of the application in view of the following remarks.

I. Drawings

The drawings are objected to because the drawings do not comply with 37 CFR §1.84. Applicant has amended the Figures to comply with 37 CFR §1.84. The amendments are supported in the original specification. No new matter is added. Approval is respectfully requested.

II. 35 U.S.C. §112

It is asserted in the Office Action that claims 1-18 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended the claims to overcome the 35 U.S.C. §112, second paragraph rejections.

Accordingly, withdrawal of the 35 U.S.C. §112 rejections of claims 1-18 are respectfully requested.

III. 35 U.S.C. §102

A. It is asserted in the Office Action that claims 1-18 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,450,063 issued to Harvey et al. ("Harvey"). Applicant respectfully traverses the aforementioned rejections for the following reasons.

According to MPEP §2131,

'[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' (Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). 'The identical invention must be shown in as complete detail as is contained in the ... claim.' (Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). The elements must be arranged as required by the claim, but this is not an ipsissimis verbis test, i.e., identity of terminology is not required. (In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)).

Applicant's amended claim 1 contains the limitations of

A handle which includes a handle member pivotally coupled to a base and a locking mechanism which releasably locks the handle member in a first position relative to the base said first position corresponding to an in-use position of the handle member, the locking mechanism including a moveable locking member within the handle member, said locking member, in use, being movable between a locking position where the locking member performs a blocking action between the handle member and the base to prevent pivotal movement of the handle member relative to the base and a release position where said blocking action is removed to release the handle member, wherein, in use, the handle member can be pivoted to a second position, the locking member being coupled to a push button located at an exterior surface of the handle member the push button being operable, in use of the handle, wherein a pushing action applied to the push button causes the locking member to move to said release position.

Harvey discloses a folding handle for attachment to a rotatable shaft element. It is asserted in the Office Action that Harvey teaches a "locking mechanism" and refers to what the Office Action asserts as a "locking member 25." A fair reading of Harvey, however, indicates to any ordinary skilled person in the art that element 25 is not a locking member, but simply an element of a detent arrangement. This is clear from the fact that in Harvey, the handle is simply moved from the in-use position (Figure 2) to the non-use position (Figure 3) by applying a force to the handle 10 sufficient enough to cause the handle to pivot between the positions. The

element 24 with bulbous end 25 simply co-acts with the base 20 to provide the detent end positions (i.e., the in-use and non-use position). Element 25, therefore, does not function as a locking member to prevent movement as is the case with the Applicant's claimed invention.

Further Applicant's claim 1 recites that the locking member performs a "blocking action," which is distinguishable from member 25 in Harvey, which simply provides a resistance action (i.e., a detent) that resists movement of the handle between the first and second positions.

Moreover, the locking member of Applicant's claim 1 is "coupled to a push button." It is argued in the Office Action that the portion identified by reference number 24, in Harvey, is a push button. Reference number 24 is not a push button. Reference 24 is neither a button nor in-use of Harvey, is it pushed. In fact, if any user were to apply a pushing action to reference 24 the net result would be increasing the pressure between the portion 25 and the detent surface of the base 20. Additionally, the reference 24 that is referred to as a "push button" is not accessible at an exterior surface of the handle member. It is, as admitted in the Office Action, located within the handle member and, therefore, cannot be said to be accessible at an exterior surface.

Simply put, Harvey does not teach, disclose or suggest Applicant's amended claim 1 limitations of:

the locking mechanism including a moveable locking member within the handle member, said locking member, in use, being movable between a locking position where the locking member performs a blocking action between the handle member and the base to prevent pivotal movement of the handle member relative to the base and a release position where said blocking action is removed to release the handle member, wherein, in use, the handle member can be pivoted to a second position, the locking member being coupled to a push button located at an exterior surface of the handle member the push button being operable, in use of the handle, wherein a pushing action applied to the push button causes the locking member to move to said release position.

Therefore, since Harvey does not disclose, teach or suggest all of Applicant's amended claim 1 limitations, Applicant respectfully asserts that a *prima facie* rejection under 35 U.S.C. § 102(e) has not been adequately set forth relative to Harvey. Thus, Applicant's amended claim 1 is not anticipated by Harvey. Additionally, the claims that directly or indirectly depend on claim 1, namely claims 2-18, are also not anticipated by Harvey for the same reason.

Accordingly, withdrawal of the 35 U.S.C. §102(e) rejections of claims 1-18 are respectfully requested.

- B. It is asserted in the Office Action that claim 1 is rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,560,082 issued to Vetter et al. ("Vetter"). Applicant respectfully traverses the aforementioned rejections for the following reasons.

Vetter discloses a window operator handle foldable between an operable position for manual pivoting and a storage position. Vetter, however, does not describe a locking mechanism that releasably locks the handle member in the first position. Similar to Harvey, Vetter simply applies a detent action that sets up a resistance to the handle being moved from the first position. The window operator handle in Vetter does not block movement and does not require removal of the blocking action to enable the handle to be moved. In Vetter, the user simply applies sufficient pressure on the handle to overcome the resistance caused by the detent.

Further, it is asserted in the Office Action that the locking member, itself, forms a push button. Moreover, it is asserted in the Office Action that the locking member 84 is within the handle member 16. Therefore, if a push button is located within the handle member, then it is not accessible at an exterior surface of the handle member. This is true even ignoring the fact that the locking member 84 cannot also constitute the push button 84.

Additionally, Applicant notes that Vetter (like Harvey), effectively represent the prior art referred to at the first full paragraph on page 3 of Applicant's specification. Applicant's claimed invention, by locking the handle in the in-use

position, overcomes the collapsing during operation that the above referenced paragraph refers to, and which is a problem with the Vetter (and Harvey) construction.

Simply put, Vetter does not teach, disclose or suggest Applicant's amended claim 1 limitations of:

the locking mechanism including a moveable locking member within the handle member, said locking member, in use, being movable between a locking position where the locking member performs a blocking action between the handle member and the base to prevent pivotal movement of the handle member relative to the base and a release position where said blocking action is removed to release the handle member, wherein, in use, the handle member can be pivoted to a second position, the locking member being coupled to a push button located at an exterior surface of the handle member the push button being operable, in use of the handle, wherein a pushing action applied to the push button causes the locking member to move to said release position.

Therefore, since Vetter does not disclose, teach or suggest all of Applicant's amended claim 1 limitations, Applicant respectfully asserts that a *prima facie* rejection under 35 U.S.C. § 102(b) has not been adequately set forth relative to Vetter. Thus, Applicant's amended claim 1 is not anticipated by Vetter.

Accordingly, withdrawal of the 35 U.S.C. §102(b) rejection of claim 1 is respectfully requested.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely 1-18, patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

If necessary, the Commissioner is hereby authorised in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

PETITION FOR EXTENSION OF TIME

Per 37 C.F.R. 1.136(a) and in connection with the Office Action mailed on June 8, 2005, Applicant respectfully petitions the Commissioner for a two (2) month extension of time, extending the period for response to November 8, 2005. The Commissioner is hereby authorized to charge payment to Deposit Account No. 02-2666 in the amount of \$450.00 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(2) large entity. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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Dated: November 8, 2005

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450 on November 8, 2005.


Jean Svoboda